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The rule of law at the national and international levels

Strengthening and coordinating United Nations rule of law activities

Report of the Secretary-General

Summary

The present report is submitted pursuant to General Assembly resolution 70/118. It highlights United Nations rule of law developments and activities at the national and international levels over the past year, and includes illustrative examples of the broad range of work covered by the United Nations entities that are members of the Rule of Law Coordination and Resource Group.

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I. Introduction

1. The present report is submitted pursuant to General Assembly resolution 70/118. It contains information on the work of the Rule of Law Coordination and Resource Group, its members, and the Rule of Law Unit. The report highlights United Nations activities in support of national implementation of multilateral treaties and facilitating access to justice for all, including the poorest and most vulnerable, which are the subtopics chosen by Member States for their consideration of the item "The rule of law at the national and international levels" during the seventy-first session of the General Assembly. It also responds to the invitation to the Secretary-General under resolution 70/118 to review the regulations on the registration and publication of treaties and on developments and practices regarding the depositary functions of the Secretary-General.

II. Promotion of the rule of law at the international level

2. The United Nations continues to be instrumental in the promotion of a system based on the rule of law at the international level, anchored in the Charter of the United Nations and framed by the corpus of international treaties and international justice mechanisms developed under its auspices. The effectiveness of the pursuit of peace and security, human rights and sustainable development is largely dependent on the strength and consistency of rule of law institutions.

A. Codification, development and promotion of an international framework of norms and standards

3. The annual high-level treaty event continues to be an important instrument for the promotion of the international normative framework. At the event held in 2015, 31 treaty-related actions were completed by 24 States.

4. The Paris Agreement on Climate Change adopted in December 2015 was a major achievement in strengthening the global response to climate change. At its opening for signature, 175 States signed and 15 States ratified or accepted it. The Minamata Convention on Mercury was ratified by an additional 16 States. Eleven additional States have consented to be bound to the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from Their Utilization to the Convention on Biological Diversity.

5. One additional State became party to the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks. The first session of the Preparatory Committee established to make recommendations to the General Assembly on the elements of a draft text of an international legally binding instrument under the Convention on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction was held from 28 March to 8 April 2016.

6. The Amendment to article 124 of the Rome Statute of the International Criminal Court was adopted on 26 November 2015. To date, no instruments of

ratification or acceptance have been deposited with the Secretary-General in relation to the instrument.

7. In the field of human rights, there have been a number of new ratifications across 10 of the core human rights treaties and their optional protocols. One additional State ratified the Convention on the Rights of the Child, bringing the number of parties to 196. The Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography had four new ratifications, while six additional States became parties to the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict. Six additional States have become parties to the Optional Protocol to the Convention on the Rights of the Child on a communications procedure. Twelve additional States became parties to the Convention on the Rights of Persons with Disabilities. There were four new accessions to the 1961 Convention on the Reduction of Statelessness.

8. In relation to the work of the human rights treaty bodies, notable developments include the adoption by the Committee on the Elimination of Discrimination against Women of general recommendations No. 33 (2015) on women's access to justice and No. 34 (2016) on the rights of rural women. The Committee on Economic, Social and Cultural Rights adopted general comments No. 22 (2016) on the right to sexual and reproductive health and No. 23 (2016) on the right to just and favourable conditions of work.

9. In the area of transnational crime, two States became parties to the United Nations Convention against Transnational Organized Crime and one State extended the Convention to territories for whose international relations it is responsible; three States became parties to the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children; one State became party to the Protocol against the Smuggling of Migrants by Land, Sea and Air; and one State became party to the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition. One State became party to the International Convention for the Suppression of the Financing of Terrorism and one State extended the application of the Convention to a territory for whose international relations it is responsible. One additional State became party to the International Convention for the Suppression of Acts of Nuclear Terrorism. Three States have become parties to the United Nations Convention against Corruption and there were 10 new ratifications of the Convention on Cluster Munitions.

10. With regard to international commercial law and development, at its forty-ninth session in 2016, the United Nations Commission on International Trade Law (UNCITRAL) adopted the UNCITRAL Model Law on Secured Transactions, the Technical Notes on Online Dispute Resolution and the second edition of the Notes on Organizing Arbitral Proceedings. The official signing ceremony for the United Nations Convention on Transparency in Treaty-based Investor-State Arbitration (Mauritius Convention) was held in Mauritius in March 2015. There were more than 58 legislative actions with respect to UNCITRAL texts.

11. With the aim of assisting Member States to participate effectively in the international multilateral treaty framework, the Office of Legal Affairs delivered two workshops on international treaty law and practice, attended by representatives of over 40 States.

B. International and hybrid courts and tribunals

12. The peaceful settlement of international disputes and ensuring accountability for international crimes are key elements in promoting the rule of law at the international level and essential to the maintenance of international peace and security.

13. The International Court of Justice plays a key role in the rule of law architecture of the United Nations. The Court issued a judgment in the case of *Certain Activities carried out by Nicaragua in the Border Area (Costa Rica v. Nicaragua)* case and continued proceedings on other contentious cases. As at 15 July 2016, there were 14 cases on the list of cases pending before the Court. The campaign of the Secretary-General to increase acceptance of the compulsory jurisdiction of the Court continues to bring attention to the special role of the Court in international dispute resolution.

14. There are now 124 States parties to the Rome Statute of the International Criminal Court, following the deposit by El Salvador of its instrument of accession. The United Nations remains committed to the Court and continues to cooperate by providing logistical support for its field operations and information sought by the Prosecutor and by defence counsel.

15. The International Criminal Court opened the trial against Bosco Ntaganda, accused of war crimes and crimes against humanity, allegedly committed in the Democratic Republic of the Congo between 2002 and 2003. The Pre-Trial Chamber of the Court granted the Prosecutor's request to authorize an investigation into the situation in Georgia between 1 July and 10 October 2008. The Prosecutor initiated a preliminary examination of the situation in Ukraine, following acceptance by that country of the jurisdiction of the Court with respect to alleged crimes committed on its territory since 20 February 2014. The trial of Laurent Gbagbo and Charles Blé Goudé, charged with crimes against humanity committed in Côte d'Ivoire between December 2010 and April 2011, began on 28 January 2016. In the fourth verdict of the Court, the former Vice-President of the Democratic Republic of the Congo, Jean-Pierre Bemba Gombo, was convicted of war crimes and crimes against humanity in the Central African Republic. The Court confirmed charges of war crimes and crimes against humanity against Dominic Ongwen for acts allegedly committed in Uganda between July 2002 and December 2005. The Prosecutor announced that Ahmad Al Faqi Al Mahdi, who faces charges of war crimes of intentionally directing attacks against historic monuments and buildings dedicated to religion in Timbuktu, Mali, had expressed his intention to plead guilty. It is the first time that a case of this kind will be considered as a war crime by the Court. The United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women) deployed an expert investigator to the Office of the Prosecutor at the Court to aid in the investigation of sexual and gender-based crimes committed in Mali. On the basis of insufficient evidence against the accused, the Court issued a decision to terminate the case against William Samoei Ruto and Joshua Arap Sang, who were accused of crimes against humanity committed in the context of post-election violence in Kenya between December 2007 and January 2008.

16. The International Criminal Tribunal for Rwanda concluded its judicial proceedings with the delivery of the Appeals Chamber judgment in the case of the *Prosecutor v. Pauline Nyiramasuhuko and others* (*Butare* case) on 14 December

2015, becoming the first United Nations ad hoc international criminal tribunal to complete its mandate. The closure of the Tribunal does not signify impunity for the remaining fugitives. For example, Ladislas Ntaganzwa was arrested in the Democratic Republic of the Congo and transferred to Rwanda, where his case was referred for trial by the Tribunal.

17. The Trial Chambers of the International Tribunal for the former Yugoslavia convicted Radovan Karadžić of genocide, crimes against humanity and war crimes, and acquitted Vojislav Šešelj of war crimes and crimes against humanity. The Appeals Chamber ordered the retrial of Jovica Stanišić and Franko Simatović on all counts of their indictments. Appeals against the *Karadžić* and *Šešelj* trial judgments will be heard by the International Residual Mechanism for Criminal Tribunals. The Residual Mechanism has also commenced pretrial proceedings in the case against *Stanišić* and *Simatović*. UN-Women supported the publication of a book entitled *Prosecuting Conflict-Related Sexual Violence at the ICTY*.

18. The Extraordinary Chambers in the Courts of Cambodia have ongoing proceedings in all three chambers. The Supreme Court Chamber is seized with the appeal in phase 1 of Case 002 and judgment is expected in 2016. The trial proceedings in phase 2 of Case 002 are continuing and a total of four suspects have been charged in Cases 003 and 004, which are at the investigation stage. The United Nations Trust Fund to End Violence against Women further strengthened its project to enhance gender sensitivity in the proceedings under the Extraordinary Chambers.

19. The Special Tribunal for Lebanon continues to conduct the trial in absentia of four persons accused of perpetrating the attack which killed Rafiq Hariri and 22 others. The Tribunal delivered judgment in the first-ever contempt trial against a corporate entity before an international criminal tribunal, with the acquittal of the corporate entity and a journalist. The judgment in the second contempt case was delivered on 15 July 2016.

20. The Residual Special Court for Sierra Leone, which continues the jurisdiction and essential functions of the Special Court for Sierra Leone, has addressed matters related to the detention of a convicted person and compliance with the terms of conditional early release.

21. The United Nations is providing technical assistance to the African Union Commission for the establishment of the hybrid court for South Sudan to address international and national crimes committed since December 2013.

C. Security Council accountability and support mechanisms

22. The Office of the United Nations High Commissioner for Human Rights (OHCHR) continued to support three commissions of inquiry (on the Syrian Arab Republic, the Occupied Palestinian Territory and Eritrea) and conducted investigations and fact-finding missions on Sri Lanka, Iraq and Libya and on atrocities committed by the terrorist group Boko Haram, and carried out a human rights assessment mission to South Sudan. Most commissions and missions have included gender experts seconded from UN-Women.

23. Further to the resolutions of the Security Council on accountability for conflict-related sexual violence, the Office of the Special Representative of the Secretary-General on Sexual Violence in Conflict developed a strategy for the

Middle East and North Africa aimed at integrating concerns on conflict-related sexual violence with counter-terrorism efforts and promoting accountability. For that purpose, the Office signed a regional cooperation agreement with the League of Arab States. Efforts to ensure accountability for conflict-related sexual violence continued in the Central African Republic, Côte d'Ivoire, the Democratic Republic of the Congo, Guinea, Mali, Somalia and South Sudan. The Office also promoted action plans to combat sexual violence with non-State actors, such as in South Sudan.

24. The Security Council requested the Secretary-General to include in the annexes to his future reports on children and armed conflict, those parties to armed conflict that engaged in patterns of abduction of children. The Special Representative of the Secretary-General for Children and Armed Conflict continues to monitor and report grave violations against children pursuant to Security Council resolution 1612 (2005). Her Office prepared reports on Iraq and the Central African Republic and global reports on children and armed conflict, and supported the implementation of the conclusions of the Security Council Working Group on Children and Armed Conflict regarding specific country situations. The Special Representative engaged with sanctions committees and briefed on the situation in the Central African Republic, the Democratic Republic of the Congo, South Sudan, the Sudan and Yemen.

D. Registration and publication of treaties

25. As requested in paragraph 8 (b) of resolution 70/118, the Secretary-General has conducted a review of the regulations giving effect to Article 102 of the Charter.[1] In that regard, the Sixth Committee may wish to consider revising the regulations, with a view to, inter alia:

(a) Reaffirming the importance of the registration and publication of treaties, as provided for in Article 102 of the Charter, and encouraging States to continue to submit treaties for registration;

(b) Reviewing the substantive conditions for registration (article 1);

(c) Recognizing the role of depositaries (other than the United Nations) in the registration of treaties, reflecting the current practice of the Secretariat and the relevant provisions of the 1969 Vienna Convention on the Law of Treaties (article 1, para. 3 etc.);

(d) Clarifying and simplifying the procedural requirements that States must meet when submitting a treaty for registration (article 5);

(e) Recognizing and further facilitating the use of electronic resources (notably, the United Nations Treaty Collection website) as an integral tool in the registration and publication process (article 9);

(f) Considering whether the current requirements for publication (article 12) appropriately meet the needs of Member States, notably the requirement for treaties to be translated into English and French, the list of treaties subject to limited

[1] See resolution 97 (1) of 14 December 1946, as modified by resolutions 364 B (IV) of 1 December 1949, 482 (V) of 12 December 1950 and 33/141 A of 19 December 1978. See also resolution 52/153 of 15 December 1997.

publication and the relationship between the United Nations Treaty Series and treaty registries and collections maintained by Member States or other entities;

(g) Modernizing the methods used to disseminate information on registered treaties, for example by replacing the requirement to produce a monthly statement of registered treaties (article 13) with an approach that draws more effectively on electronic resources, such as the United Nations Treaty Collection website.

E. Depositary functions of the Secretary-General

26. As requested in paragraph 8 (d) of resolution 70/118, the Secretary-General hereby provides brief information on developments and practices in the discharge of his functions as depositary of multilateral treaties, which are not reflected in the *Summary of Practice of the Secretary-General as Depositary of Multilateral Treaties*:

(a) The Secretary-General's bulletin entitled "Procedures to be followed by the departments, offices and regional commissions of the United Nations with regard to treaties and international agreements" (ST/SGB/2001/7), issued on 28 August 2001, contains, inter alia, instructions in relation to the discharge of his depositary functions under multilateral treaties;

(b) In an effort to reduce paper consumption and to conserve energy and resources, the Treaty Section of the Office of Legal Affairs has discontinued the annual hard-copy publication of the *Status of Multilateral Treaties Deposited with the Secretary-General*, which has been replaced with an online version available on the United Nations Treaty Collection website (updated daily). It has also discontinued the distribution of depositary notifications on paper, which are currently circulated electronically through the automated subscription services and are fully accessible on the Treaty Collection website;

(c) The Treaty Section is currently implementing a project aimed at making accessible online all depositary notifications issued by the Secretary-General since 1945;

(d) The Treaty Section has undertaken consistent efforts to rationalize the division of labour between the depositary functions it exercises on behalf of the Secretary-General and the secretariat functions that other United Nations offices discharge under multilateral treaties, notably with regard to the receipt and circulation of notifications relating to such treaties;

(e) The Secretary-General has extended to 12 months the period by which parties must inform him if they wish him not to accept in deposit a communication by a State Party which seeks to modify an existing reservation. He has also extended to 12 months the period by which parties must inform him that they do not wish to be considered as accepting a late reservation;

(f) In its current depositary practice, the Secretary-General accepts the deposit of an instrument on the basis of a copy sent to the Treaty Section by fax or e-mail, provided that the original of such instrument is received as soon as possible thereafter;

(g) In an effort to provide capacity-building to Member States, the Treaty Section organizes, in collaboration with host Governments, regional workshops on

treaty law and practice, which provide information, inter alia, on the discharge of the depositary functions of the Secretary-General.

III. National implementation of multilateral treaties: United Nations support for the rule of law at the national level

27. United Nations rule of law assistance is guided by the international legal framework. It supports the development of national legislation consistent with international norms and standards, and the strengthening of institutions to achieve peace, security and justice, protect human rights and enable sustainable development.

Support to constitution-making

28. Constitutions provide the normative and institutional foundation of States. It is therefore critical that they enable a strong system based on the rule of law, consistent with international obligations, especially those derived from human rights law. In Liberia, Libya and Somalia the Department of Peacekeeping Operations, the Department of Political Affairs and the United Nations Development Programme (UNDP) have provided assistance in ongoing reform processes, including ensuring the participation and inclusion of different sectors. In Nepal, UNDP supported national consultations to inform the constitution-making process. UN-Women has worked in Liberia, Myanmar, Nepal and Sierra Leone to assist in the incorporation of constitutional provisions that support gender equality. OHCHR has provided assistance regarding the human rights aspects of proposed constitutional provisions in Sierra Leone, Thailand and Ukraine.

Law reform and justice systems

29. Legal frameworks based on international human rights norms, and supported by independent, efficient and competent justice systems, are core elements of the rule of law and therefore a priority of United Nations assistance. In Somalia, the United Nations Assistance Mission (UNSOM) and UNDP have supported the elaboration of legal frameworks for police, justice and corrections in the new federal system and the review of the sexual offences bill, while the Office of the United Nations High Commissioner for Refugees (UNHCR) has supported the development of legislation on housing, land and property in the context of internal displacement and refugee protection. UNDP has supported the drafting of laws in Afghanistan, Myanmar, the State of Palestine and Somalia, including on ensuring provisions for vulnerable groups. The United Nations Office on Drugs and Crime (UNODC) has contributed to criminal law reforms in Cabo Verde (alternatives to detention for individuals between 16 and 21 years), Myanmar (legal aid), Thailand (criminalization of sexual abuse and exploitation of children), and Uruguay (regulations concerning children in conflict with the law). UNHCR has supported more than 60 countries in ensuring that their national legal frameworks are in compliance with international refugee law.

30. The Department of Peacekeeping Operations has deployed 242 justice experts in 13 peace operations to advance stabilization and security, guide national authorities to extend basic legal services to all populations, lay the foundations for

strengthening rule of law institutions, ensure criminal accountability and address impunity for crimes that fuel conflict. The United Nations Mission in Liberia (UNMIL) helped to set up jury and case management units and with UNDP, the Peacebuilding Fund continued to support a project on justice and security hubs to make services accessible. UNDP supported sector-wide planning on justice and security with particular emphasis on promoting access to justice for vulnerable groups, for example in Guatemala, Guinea-Bissau and Myanmar. Increased attention is also being paid to measuring the effectiveness of the justice sector through mechanisms to monitor and collect data. The United Nations Assistance Mission in Afghanistan (UNAMA) and UNDP supported Afghanistan in measuring the effectiveness of law enforcement, justice and correctional institutions using the Rule of Law Indicators Survey.

31. Training remains an important component of capacity-building efforts for justice personnel, as well as for practitioners and civil society. The Department of Peacekeeping Operations has continued to professionalize criminal justice institutions by developing vetting procedures, legislation, regulations, policies, training programmes and institutions across all 13 peace operations with justice and corrections mandates. The African Union-United Nations Hybrid Operation in Darfur (UNAMID) has supported training for rural court judges in cases related to land disputes and other conflict drivers. To date, judges representing 40 rural courts have been trained. In Guinea-Bissau, Kosovo and Pakistan, UNDP has supported judicial training academies and in Pakistan training for community paralegals. UNHCR has implemented a training programme on refugees for government officials and non-governmental organizations (NGOs) in numerous countries and supported legal practitioners and civil society organizations dealing with asylum seekers and refugees.

Police

32. The Department of Peacekeeping Operations currently supports the deployment of about 13,500 United Nations police officers and civilian experts to 18 peace operations and other post-conflict and crisis situations. The officers support national policing institutions and rule of law mechanisms, including through operational support in maintaining basic law and order functions and interim policing. In the Central African Republic, United Nations police have assumed interim responsibilities in Bangui, where national police are not present or not operational. United Nations police supported security in the elections in Côte d'Ivoire in October 2015, in Haiti in December 2015 and in the Central African Republic in 2015-2016. In Haiti, the United Nations Stabilization Mission (MINUSTAH) is supporting the strengthening of the national police by training 5,471 officers. The United Nations Children's Fund (UNICEF) and the Department of Peacekeeping Operations have supported predeployment training on children's rights and justice for children. In Somalia, the United Nations Mine Actions Service trained and equipped police teams in explosive hazard clearance.

33. Support to policing also strives to strengthen community-police relationships. In the Democratic Republic of the Congo, Pakistan and Tunisia, UNDP has supported community policing initiatives, such as the development of joint community-police plans. In Nepal, the United Nations Office for Project Services (UNOPS) built 10 citizens' help desks to allow citizens to discuss security issues with local police. In Afghanistan, Pakistan and Somalia, UNDP has supported the

recruitment of female police officers and training on gender-sensitive police services, while in Sierra Leone, it supported the establishment of an independent police complaints board to encourage accountability. In Kenya, UNODC supported the development of codes of conduct, a human rights strategy and a gender-mainstreaming policy for the national police, as well as the strengthening of the civilian-led oversight authority, while in Myanmar it has provided advice for addressing disciplinary measures. UN-Women has supported training on conflict-related sexual violence for police and military officers in four countries, including training for female military officers in India and South Africa.

Corrections

34. The Department of Peacekeeping Operations currently deploys 431 specialist Corrections Officers to conflict and post-conflict settings to advance peace and security through the strengthening of prison services. In Liberia, UNMIL is supporting the operation of 14 prisons and the development of a four-year strategic prison plan. In the Central African Republic, the United Nations Multidimensional Integrated Stabilization Mission (MINUSCA) has supported the enactment of an overarching prison law, which provides a legal framework for the re-establishment of the national prison service, and has assisted with reopening the central prison. In Afghanistan, UNAMA conducted a survey to support the provision of health services to prisoners. In Darfur, UNAMID has supported legal aid desks in six prisons, which have contributed to a reduction in overcrowding and prolonged pretrial detention. UNOPS has reviewed the *Technical Guidance for Prison Planning* to support the development of correctional infrastructure that meets human rights obligations.

35. The Department of Peacekeeping Operations has provided support for professionalizing the corrections services through training and regulatory reform in the Central African Republic, Darfur, the Democratic Republic of the Congo, Liberia, Mali and Somalia. In support of the professionalization of the management of prisons, the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO) has assisted with the training of 187 officers on incident management. in Algeria, UNDP has supported the development of training programmes and guidance for prison administrators and psychosocial support to juvenile prisoners. UNODC has provided training to prison officials in Burkina Faso, Chad, Mali, Myanmar, Somalia and the United Arab Emirates.

36. Efforts addressed at the well-being of prisoners have included UNODC activities to promote literacy and vocational skills, including for female prisoners, in Afghanistan. In Peru, UNOPS has supported the establishment of social rehabilitation services in prisons in two provinces. OHCHR has supported women's rights in custodial settings through capacity-building activities with the network of national human rights institutions in West Africa.

37. United Nations assistance has also addressed alternatives to detention in different contexts. In Malaysia, UNHCR supported a national action plan on alternatives to immigration detention for asylum seekers. In Armenia, the United Nations Democracy Fund generated and supported a project to develop a pilot probation system to address the overuse of imprisonment and promote proportionate responses to crime.

Disarmament, demobilization and reintegration

38. In States emerging from conflict, the presence of armed persons, unemployed and trained in using violence and often with links to organized crime, is one major obstacle to restoring the rule of law. In response to the changing nature of conflict, disarmament, demobilization and reintegration efforts now encompass a broad range of activities from the prevention of recruitment (youth at risk projects in Darfur) to enabling the creation of sustainable livelihoods, including through a legal aid programme, as part of community violence reduction initiatives (Haiti), the repatriation of foreign fighters (Democratic Republic of the Congo), the cantonment and relocation of warring factions (Mali, Central African Republic) programmes supporting disengaging fighters (Somalia and Democratic Republic of the Congo) and assistance to the African Union and its subregional organizations for developing capacity in the area of disarmament, demobilization and reintegration.

Security sector reform

39. In resolution 2151 (2014), the Security Council reaffirmed that security sector institutions which are fully compliant with human rights are a key element for recovering from conflict and strengthening rule of law institutions. In the Central African Republic, MINUSCA provided advice on the development of defence and security provisions in the draft constitution and on the reorganization of the Ministry of Defence and the armed forces. In Mali, the United Nations Multidimensional Integrated Stabilization Mission (MINUSMA) supported the implementation of the defence and security provisions of the Agreement on Peace and Reconciliation and the rebuilding of the security sector. In Côte d'Ivoire, the United Nations Operation has provided technical support on defence sector reform. UNDP has supported the development of security strategies in Iraq and Guatemala and accountability through human rights training in Chad. UNOPS is implementing a three-year programme to support the State of Palestine in strengthening civilian governance of the security sector. Through a coordinated system-wide effort, the United Nations Inter-Agency Security Sector Reform Task Force finalized a publication aimed at practitioners entitled *Security Sector Reform: Integrated Technical Guidance Notes*.

The fight against impunity and transitional justice

40. Transitional justice mechanisms aim to restore the rule of law through truth, justice, reparation and guarantees of non-recurrence. Accountability for serious crimes is a central element in those processes. OHCHR has sought to strengthen national capacity for the investigation and prosecution of serious human rights violations, for example in Cambodia, Colombia and Guatemala. In the Central African Republic, MINUSCA and UNDP are assisting the transitional authorities in the establishment of a special criminal court, which will operate according to national legislation, with national and international magistrates to try those responsible for serious human rights violations committed since 2002. In the Democratic Republic of the Congo, MONUSCO and UNDP prosecution support cells have contributed to 19 war crimes investigation missions and the holding of 14 mobile courts, with 148 persons arraigned resulting in 114 convictions, between July and December alone. OHCHR has provided advice on accountability and transitional justice arrangements foreseen by peace agreements in Mali, South Sudan and the Sudan (Darfur). It has also supported the Extraordinary African

Chambers set up within the Senegalese court system and monitored the trial of Hissène Habré, who was convicted for crimes against humanity, war crimes and torture.

41. In Sri Lanka, OHCHR has provided advice on transitional justice mechanisms to deal with allegations of violations of international humanitarian and human rights law. In Kosovo, the Department of Peacekeeping Operations and UNDP have contributed to the development of the transitional justice strategy and supported national consultations on judicial integration. OHCHR has also supported local initiatives to promote national ownership of transitional justice processes in Chad and Mauritania. In Tunisia, UNDP and OHCHR have provided support to the Truth and Dignity Commission and OHCHR has provided advice on violations of economic, social and cultural rights. In Colombia, UNDP has supported the participation of victims in the peace negotiations and their access to redress and reparations; OHCHR supported the investigation and prosecution of extrajudicial killings; and the Special Representative of the Secretary-General for Children and Armed Conflict supported the inclusion of a commitment in the peace negotiations to stop the recruitment and use of children by the Revolutionary Armed Forces of Colombia — People's Army (FARC-EP) and is assisting the process of their separation and reintegration. OHCHR has advocated for the meaningful inclusion of women in peace processes and reconciliation mechanisms, including in Afghanistan, Guinea, Libya and Tunisia, and UNDP has continued to support access to justice for indigenous women in transitional justice processes in Guatemala. UN-Women has deployed nearly 30 gender experts to support national, regional and international investigations and accountability processes, including to commissions of inquiry and fact-finding missions.

Statelessness

42. UNHCR has continued its technical support to governmental efforts to resolve and prevent situations of statelessness. In Côte d'Ivoire, its support enabled over 2,000 stateless individuals to acquire nationality. In Central Asia, its work with government and NGO partners has enabled the identification and resolution of thousands of cases of statelessness. In Thailand, cooperation with the Government and NGOs has resulted in the granting of nationality to more than 18,000 individuals in the last three years. In partnerships with Governments and NGOs, UNHCR has also facilitated birth registration to prevent statelessness, including in Bosnia and Herzegovina, Indonesia and Kenya. It has continued to support countries neighbouring the Syrian Arab Republic to facilitate and improve the registration of children born to Syrian refugees.

Refugees and internally displaced persons

43. Procedures for determining refugee status, based on international standards, continue to be critical to the integrity of the institution of asylum. UNHCR has worked with States on quality assurance initiatives: in Argentina, Bolivia (Plurinational State of), Brazil, Costa Rica, Mexico and Panama, and in Eastern Europe and the Caucasus, those initiatives have supported the incorporation of due process of law principles into procedures for determining refugee status. In 60 countries and territories that lack functioning or effective procedures, UNHCR has continued to carry out refugee status determination procedures. In Europe, it has intensified advocacy efforts for a holistic and coordinated response. In Bosnia and

Herzegovina, it has supported strategic litigation to promote judicial interpretations of asylum laws in conformity with international standards.

44. To support Member States in addressing challenges posed by refugees and internally displaced persons, UNHCR activities have included legal information and counselling in Lebanon and Georgia; capacity-building on the housing, land and property rights of refugees and internally displaced persons in the Central African Republic; advocacy for the provision of housing for returnees and refugees excluded from the regional housing programme in Croatia; and support for the development of a policy for internally displaced persons in Sri Lanka. It nas also promoted access to national health care systems for refugees in Egypt, Ghana, the Islamic Republic of Iran, Malaysia and Niger, as well as access to education, child protection systems and livelihoods for refugees in numerous other countries.

Gender-based violence and conflict-related sexual violence

45. Appropriate responses to gender-based crimes require measures specifically tailored to address the particularities associated with them. OHCHR is supporting the adoption or implementation of legislation on sexual violence (Afghanistan, Burundi, the Central African Republic, Iraq, Nigeria and Timor-Leste), advocating for the participation of victims and witnesses of sexual violence in peace and reconciliation processes (the Central African Republic and Darfur), supporting assistance to victims of sexual violence and supporting reparation efforts (Darfur, the Democratic Republic of the Congo, Guatemala and Tunisia). UN-Women has supported efforts to review discriminatory laws and to provide gender-sensitive justice services. In Afghanistan it has supported women's protection centres and family guidance centres in 11 provinces, benefiting more than 3,500 women and their children, and in Indonesia it has provided training to High Court judges on human rights and gender perspectives. OHCHR has supported research and projects on wrongful stereotyping by the judiciary in cases of sexual and gender-based violence, inter alia, in Guatemala and West Africa. In Somalia, UNSOM, United Nations police, UNDP and UN-Women, have assisted the police in developing a strategy to strengthen their capacity to prevent and address sexual and gender-based violence. In Liberia, UNDP has supported training for the police on investigating crimes of sexual and gender-based violence and setting up a victim hotline, and in Burundi, Iraq and Sierra Leone it has supported legal aid centres offering services to survivors of sexual and gender-based violence from refugee and internally displaced person populations. UNHCR has deployed eight Senior Protection Officers to 11 operations to provide technical support in the prevention of sexual and gender-based violence and response programming in emergencies and has established a high-level advisory group on gender, forced displacement and protection. UNODC has provided gender-sensitive training to criminal justice and/or law enforcement officers in Kyrgyzstan, the State of Palestine, South Africa and Viet Nam and delivered training to the judiciary on stereotypes regarding sexual violence. To promote gender-sensitive approaches in justice systems, the Special Representative of the Secretary-General on Violence against Children issued a report entitled "Safeguarding the rights of girls in the criminal justice system: preventing violence, stigmatization and deprivation of liberty".

46. The Team of Experts on the Rule of Law and Sexual Violence in Conflict, established under Security Council resolution 1888 (2009), has continued to provide assistance to national authorities on criminal investigations and prosecutions, the

collection and preservation of evidence of sexual violence, substantive and procedural law reform, the protection of victims and witnesses and reparations. The Team has deployed to the Central African Republic, Colombia, the Democratic Republic of the Congo, Guinea, Iraq, Mali, South Sudan and the Syrian Arab Republic and its neighbouring countries.

Protection of children

47. Rule of law assistance specifically aimed at supporting the protection of children covers a broad range of areas. In 57 countries, UNICEF has focused its efforts on improving legal frameworks, including in Croatia to allow diversion measures for youth in conflict with the law, in Sri Lanka regarding the minimum age of criminal responsibility and in Viet Nam to modify the criminal policy for child offenders. The Special Representative of the Secretary-General on Violence against Children has continued to support the adoption of legislation prohibiting all forms of violence against children, including in Chile, Panama, Paraguay and Peru.

48. UNICEF has supported legal services for children in 84 countries, capacity-building activities in 78 countries and training on justice for children in 35 countries, benefiting over 40,000 judicial, law enforcement and social affairs officers. It has supported the investigation and prosecution of online child sexual exploitation in 13 countries and alternative and diversion measures for children in conflict with the law in countries such as Albania and Egypt. UNODC, together with the Office of the Special Representative of the Secretary-General for Children and Armed Conflict, OHCHR and UNICEF, has provided capacity-building in West Africa on justice and security challenges concerning children associated with violent extremist groups. The Special Representative of the Secretary-General on Violence against Children has supported the development of regional plans for the protection of children from violence, such as the Association of Southeast Asian Nations Regional Plan of Action on the elimination of violence against children, the Council of Europe Strategy for the rights of the child and Africa's Agenda for Children 2040. To promote children's access to information about their rights, she also developed child-friendly versions of the Optional Protocols to the Convention on the Rights of the Child.

49. In conflict-affected countries, the Special Representative of the Secretary-General for Children and Armed Conflict has continued to advance the campaign "Children, Not Soldiers", aimed at ending the recruitment and use of children in government forces, and together with UNICEF, she has continued to support the implementation of action plans with parties to conflict in Afghanistan, the Democratic Republic of the Congo, Myanmar, Philippines, Somalia, South Sudan and Yemen. The Government of the Sudan has signed an action plan to end and prevent child recruitment and use in its security forces, providing for measures to ensure accountability. UNICEF has provided reintegration assistance to almost 7,000 children released from armed forces or non-State armed groups. It has also supported the development of release and reintegration strategies in the Central African Republic, Colombia and South Sudan.

Human trafficking and the smuggling of migrants

50. Through its global programmes against trafficking in persons and the smuggling of migrants, UNODC has supported activities in more than 70 countries.

Approximately 900 criminal justice practitioners and government officials have been trained to investigate and prosecute trafficking in persons and the smuggling of migrants while providing support to the victims. UN-Women has supported measures to address gender-sensitive responses to trafficking and to promote the rights of women migrants, such as in the Republic of Moldova, where it has supported the drafting of legislation on labour, migration and human trafficking, and in Ukraine, where it has supported the drafting of legislation to ensure that victims of trafficking have access to the services they need. UNODC, with UNICEF and the International Organization for Migration, launched a new four-year global action to prevent and address trafficking in persons and smuggling of migrants, which seeks to assist 13 countries in Africa, Asia, Eastern Europe and Latin America and to foster international cooperation. OHCHR has supported the capacity development of law enforcement officials in Eastern Europe, the Middle East and South-East Asia, and has supported training on the human rights of migrants for naval forces operating in the Mediterranean.

Transnational organized crime

51. UNODC continues to provide technical assistance for the ratification and implementation of the United Nations Convention against Transnational Organized Crime. It has supported assessments, awareness-raising, training, legislative advice and developed a number of guides to the Convention. It has supported regional networks of central authorities and prosecutors dealing with organized crime, such as the Network of Prosecutors and Central Authorities from Source, Transit and Destination Countries in response to Transnational Organized Crime in Central Asia and Southern Caucasus and the West African Network of Central Authorities and Prosecutors against Organized Crime. In South Asia it supported the establishment of the Regional Intelligence and Coordination Centre on Transnational Organized Crime to facilitate the collection, analysis and sharing of criminal intelligence.

52. UNODC launched LE TrainNet, a platform for cooperation between law enforcement training institutions. With the World Customs Organization, UNODC has expanded its support for law enforcement agencies to detect illicit goods in cargo containers at sea, land and air ports in Afghanistan, Indonesia, Jordan, Malaysia, the Philippines, Thailand, Uzbekistan and Viet Nam. In West Africa, UNODC has continued to support the Economic Community of West African States in the implementation of its Regional Action Plan against drug use, trafficking and organized crime. United Nations Police has continued to strengthen its capabilities to address serious and organized crime. In cooperation with the International Criminal Police Organization (INTERPOL) and national transnational crime units, United Nations Police has expanded the capacity to gather and analyse information on serious and organized crime in the 18 United Nations peace operations. It has also conducted capacity gap assessments in the Democratic Republic of the Congo, Côte d'Ivoire, Haiti and Liberia.

53. UNODC has continued to support the strengthening of regimes to prevent the illicit manufacturing and trafficking of firearms, providing legislative and policy advice in 9 countries in West Africa, and 16 in Latin America. Support regarding wildlife crime was increasingly emphasized in particular in Eastern and Western Africa and South-East Asia. The UNODC global programme on cybercrime continued to help Member States to build capacity with a focus on Central America, East Africa and South-East Asia. To support efforts to address trafficking in cultural

property, UNODC is developing a practical assistance tool and is developing a database of national legislation and case law.

Counter-terrorism

54. Respect for the rule of law and human rights while countering terrorism is a fundamental basis for all measures to prevent and counter terrorism. Through the United Nations Counter-Terrorism Implementation Task Force, United Nations entities have continued to support capacity-building aimed at strengthening institutions based on the rule of law to prevent and counter terrorism. The Task Force, in consultation with the Counter-Terrorism Committee Executive Directorate and the Al-Qaida Monitoring Team, supported the preparation of a capacity-building implementation plan to assist Member States in addressing foreign terrorist fighters.

55. The United Nations Counter-Terrorism Centre is implementing 37 projects covering the four pillars of the United Nations Global Counter-Terrorism Strategy, such as a project to build capacity in terrorist designation and asset-freezing regimes, aimed at promoting rules-based, transparent and effective financial regulatory regimes to stop terrorists from accessing funds. UNODC has supported the efforts of Member States in strengthening criminal justice responses to terrorism in the Middle East and North Africa, sub-Saharan Africa, in particular the Sahel, West Africa and the Horn of Africa, Central, South and South-East Asia, the Pacific, Latin America and the Caribbean, and South-Eastern Europe. UNODC has trained more than 3,000 criminal justice officials in the prevention and countering of terrorism through some 100 national, regional and international workshops. In Mali, United Nations entities are providing assistance to support integrated implementation of the Global Counter-Terrorism Strategy through the Integrated Assistance for Countering Terrorism (I-ACT) initiative and MINUSMA has supported the investigation and prosecution of terrorism and transnational organized crime and the development of new laws to counter money-laundering and terrorist financing. OHCHR, with the support of the Office of the Counter-Terrorism Implementation Task Force, has provided training for law enforcement officials on the protection of human rights and the rule of law while countering terrorism in Iraq, Jordan and Tunisia.

Corruption

56. In support of the implementation of the United Nations Convention against Corruption, progress was made towards completing the first cycle of the Implementation Review Mechanism, with the publication of 45 additional executive summaries of country review reports in 2015. UNODC continues to support its network of regional anti-corruption advisers, which provides rapidly deployable professional expertise to support States in implementing the Convention. UNODC has produced a number of guidance tools, including a "Resource guide on good practices in the protection of reporting persons" and "National anti-corruption strategies: a practical guide for development and implementation". OHCHR has issued a compilation of best practices to counter the negative impact of corruption on the enjoyment of all human rights (A/HRC/32/22).

Natural resources and the environment

57. Progress was made in strengthening the environmental rule of law through activities in support of normative frameworks and institutions. The United Nations Environment Programme (UNEP) launched the Law and Environment Ontology portal to provide policymakers, citizens and researchers around the world with environmental law information. With other partners, UNEP supported the first Africa Colloquium on Environmental Rule of Law, which concluded in a joint commitment to strengthen environmental law in the region. The INTERPOL-UNEP Environmental Compliance and Enforcement Conference resulted in a global action plan, based on recommendations to enhance environmental security. In Africa, UNEP has supported the establishment of parliamentary conservation caucuses to further the adoption of policies and legislation, including the adoption of regulations to enforce the Wildlife Conservation and Management Act of 2013 in Kenya, the development of a conservation strategy and wildlife bill in Zambia and the establishment of caucuses in Malawi and Uganda. Further to the Montevideo Programme for the Development and Periodic Review of Environmental Law, UNEP has convened experts to identify priorities and challenges regarding environmental crimes, the regulation of air pollution and protection of the atmosphere, the sustainability of oceans and seas, and the legal foundations for environmental sustainability.

58. To further the linkages between human rights and environmental protection, UNEP, OHCHR and the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment have supported projects on good practices, climate change and biodiversity. They have also created a web portal containing legislation, policies, case law, administrative practices, projects and experiences on the implementation of human rights obligations relating to the environment.

59. To support the implementation of the United Nations Convention on the Law of the Sea, the Office of Legal Affairs delivered training to government officials in Somalia (funded by the Trust Fund to Support Initiatives of States Countering Piracy off the Coast of Somalia) and to 13 Pacific small island developing States (in cooperation with the Intergovernmental Oceanographic Commission of the United Nations Educational, Scientific and Cultural Organization and with support from the Korea Maritime Institute).

IV. Access to justice for all, including for the poorest and most vulnerable

60. Ensuring equal access to justice for all is essential for translating the principles of the rule of law into effective mechanisms to provide protection, redress and accountability for serious crimes and human rights violations. Justice services are often not accessible for populations living in poverty and/or in remote areas. In Djibouti, Kosovo, the State of Palestine, Somalia, and Timor-Leste, UNDP is working to deliver mobile legal aid services and legal awareness to populations in remote areas. In Egypt, Guinea-Bissau, Nepal, the State of Palestine, and Sri Lanka, UNDP has supported legal aid initiatives for vulnerable groups, especially women and pretrial detainees, and in Tajikistan, it has supported a State agency for legal aid centres. It has also supported the development of legal frameworks to facilitate the

provision of legal aid in Chad, Pakistan, the State of Palestine and Sri Lanka. In Haiti, MINUSTAH supported local bar associations in providing legal services to pretrial detainees and indigents. UNODC has promoted access to legal aid in criminal justice systems, for example in Ethiopia, where it supported the development of a legal aid manual, in Liberia, where it supported the Public Defense Office in ensuring access to legal aid for indigent clients, and in Mauritania, where it supported the development of legislation on legal aid. The Department of Peacekeeping Operations and the Department of Political Affairs have continued to support legal aid programmes in, for example, Darfur, Haiti, Liberia and Somalia.

61. United Nations activities have included assistance to facilitate access to justice for specific groups. In Kenya, UNHCR supported mobile courts for a refugee camp, allowing 1,043 persons to have their cases heard in 2015. It has also supported the authorities in Rwanda, Ethiopia, Uganda and Somalia, in improving access to justice for refugees and internally displaced persons, and supported legal assistance to Syrian refugees in Jordan and internally displaced persons in Pakistan. It has also supported access to justice for returnees, such as in the Central African Republic, where it supported female returnees in their land claims. In Algeria, access to justice for persons with disabilities was part of support provided by UNDP for the modernization of the justice sector. In Brazil, UNODC has trained public defenders in the provision of legal services to victims of human trafficking.

62. In support of civil society's efforts to improve access to justice, UNDEF supported projects in Rwanda, to provide access to justice to rural populations, in Sierra Leone to enhance women's access to justice and in Zimbabwe to educate ex-farm workers on the use of justice institutions.

V. System-wide coordination and coherence

63. Rule of law coordination arrangements are organized around a three-layer structure: at Headquarters, the Rule of Law Coordination and Resource Group, with the support of the Rule of Law Unit in the Executive Office of the Secretary-General, facilitates strategic policies and information-sharing; the Global Focal Point for police, justice and corrections areas in the rule of law in post-conflict and other crisis situations, led jointly by the Department of Peacekeeping Operations and UNDP, provides coordinated Headquarters support to country-level requests for rule of law assistance; at country level, the most senior official in each setting is responsible for overseeing United Nations rule of law strategies and coordinating country support on the rule of law.

64. A new coordination thematic group, including United Nations entities and international NGOs, was established under the leadership of UNDP and UNHCR and as part of the Solutions Alliance to leverage United Nations rule of law assistance to people affected by forced displacement.

A. Strengthening coordination and coherence at Headquarters

65. The current membership of the Rule of Law Coordination and Resource Group consists of 20 United Nations entities with rule of law components in their

mandates. It thus brings together policymakers on the rule of law from a wide range of areas of work across the United Nations system. In support of the Group, the Rule of Law Unit in the Executive Office of the Secretary-General has facilitated discussions and the development of policy guidance on specific areas of the rule of law, such as land- and conflict-related issues or displacement situations. To enhance the dissemination of information among Member States, United Nations entities and the general public, the Rule of Law Unit undertook a revision of the rule of law website aimed at facilitating access by streamlining its design and integrating the content with the main United Nations website.

66. Further to the invitation from the General Assembly to continue the dialogue between the Rule of Law Coordination and Resource Group and Member States, the Rule of Law Unit organized an informal briefing of the Global Compact and its Business for Rule of Law initiative, and a briefing from UNICEF, the Special Representative of the Secretary-General for Children and Armed Conflict and the Special Representative of the Secretary-General on Violence against Children. To continue the dialogue with Member States on the rule of law at the international level, the Rule of Law Unit, together with the Permanent Missions of Australia and Japan, hosted a discussion on the theme of "Strengthening the rule of law through the United Nations Security Council".

67. The Rule of Law Unit has continued to facilitate the sharing of national practices to advance specific aspects of the rule of law. The Permanent Missions of Argentina, Rwanda and Turkey, together with the Rule of Law Unit on behalf of the Rule of Law Coordination and Resource Group, hosted an event on the theme of "Implementing international standards and norms: sharing national practices on prison reform". The Permanent Missions of Finland and Tajikistan, together with the Rule of Law Unit on behalf of the Rule of Law Coordination and Resource Group, hosted an event on the theme of "Sharing national practices: ombudsman institutions — guardians of the rule of law". The Permanent Missions of Italy, Mexico and Turkey, together with the Rule of Law Unit on behalf of the Rule of Law Coordination and Resource Group, hosted an event on the theme of "E-justice: sharing national experiences in enhancing transparency, effectiveness and access to justice".

B. Headquarters support to country-level requests: Global Focal Point for police, justice and corrections

68. The Department of Peacekeeping Operations and UNDP, with OHCHR, UN-Women and UNODC, has continued to consolidate delivery through the global focal point arrangement. Improved joint and coordinated support has been provided in the areas of rule of law and human rights to field colleagues working in peace operations and in other conflict and post-conflict settings.

69. Between August 2015 and May 2016, Global Focal Point partners supported the design and establishment of the Special Criminal Court in the Central African Republic and helped to design a project on the Joint Integrated Police in South Sudan. Global Focal Point partners also deployed experts to help develop a strategy and vision for United Nations rule of law support in Guinea-Bissau and formulate a joint rule of law and human rights programme in Darfur. UNAMID and UNDP have already made significant strides in supporting prison reform in Darfur, facilitating

continued legal aid to vulnerable communities and improving community security in and around camps for internally displaced persons.

C. Country-level rule of law arrangements

70. United Nations senior leadership at the country level is responsible for guiding and overseeing rule of law strategies and for coordinating country support on the rule of law. Instances of joint United Nations assistance include activities in the Central African Republic to support national counter-impunity efforts, including prison inspections and legal assistance to the accused. In Timor-Leste, UNDP and UN-Women are jointly working on supporting gender-responsive policing within the national police. In Darfur, Haiti and Liberia, where United Nations peace operations are scaling down, Global Focal Point partners have been working together to ensure a smooth transfer of responsibilities. MINUSTAH, UNDP, UN-Women and UNICEF are developing a transition and resource mobilization plan to ensure continuity of rule of law assistance in the context of mission transition. Following the adoption of the Agreement on the Resolution of the Conflict in the Republic of South Sudan, United Nations Police, UNDP and national counterparts have raised approximately $2 million for the training of Joint Integrated Police. United Nations Police have identified 41 police trainers within the United Nations Mission in South Sudan and deployed a further 36 new trainers for the project.

D. Strengthening the rule of law in the Organization

71. The internal system of administration of justice is an essential component for the observance of the rule of law within the Organization and for its staff members. As at 1 July 2016, the United Nations Dispute Tribunal had issued 1,293 judgments, while the United Nations Appeals Tribunal had issued 650.